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22 CFR Ch. I (4–1–03 Edition)

considering that the denial was not justified.

[31 FR 14521, Nov. 11, 1966]

Subpart B—Retention and Resumption of Nationality

§ 50.20 Retention of nationality.

(a) *Section 351(b) of the Immigration and Nationality Act.* (1) A person who desires to claim U.S. nationality under the provisions of section 351(b) of the Immigration and Nationality Act must, within the time period specified in the statute, assert a claim to U.S. nationality and subscribe to an oath of allegiance before a diplomatic or consular officer.

(2) In addition, the person shall submit to the Department a statement reciting the person's identity and acquisition or derivation of U.S. nationality, the facts pertaining to the performance of any act which would otherwise have been expatriative, and his desire to retain his U.S. nationality.

[31 FR 13537, Oct. 20, 1966, as amended at 61 FR 29652, 29653, June 12, 1996]

§ 50.30 Resumption of nationality.

(a) *Section 324(c) of the Immigration and Nationality Act.* (1) A woman formerly a citizen of the United States at birth who wishes to regain her citizenship under section 324(c) of the Immigration and Nationality Act may apply abroad to a diplomatic or consular officer on the form prescribed by the Department to take the oath of allegiance prescribed by section 337 of that Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department for decision, that the applicant is ineligible for resumption of citizenship because of section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(b) *The Act of June 25, 1936.* (1) A woman who has been restored to citizenship by the Act of June 25, 1936, as amended by the Act of July 2, 1940, but who failed to take the oath of allegiance prior to December 24, 1952, as prescribed by the nationality laws,

may apply abroad to any diplomatic or consular officer to take the oath of allegiance as prescribed by section 337 of the Immigration and Nationality Act.

(2) The applicant shall submit documentary evidence to establish her eligibility to take the oath of allegiance. If the diplomatic or consular officer or the Department determines, when the application is submitted to the Department, that the applicant is ineligible for resumption of citizenship under section 313 of the Immigration and Nationality Act, the oath shall not be administered.

(c) *Certification of repatriation.* Upon request and payment of the prescribed fee, a diplomatic or consular officer or the Department shall issue a certified copy of the application and oath administered to a woman repatriated under this section.

(d) *Section 324(d)(1) of the Immigration and Nationality Act.* (1) A former citizen of the United States who did not retain U.S. citizenship by failure to fulfill residency requirements as set out in Section 201(g) of the 1940 Nationality Act or former 301(b) of the 1952 Immigration and Nationality Act, may regain his/her U.S. citizenship pursuant to Section 324(d) INA, by applying abroad at a diplomatic or consular post, or in the U.S. at any Immigration and Naturalization Service office in the form and manner prescribed by the Department of State and the Immigration and Naturalization Service (INS).

(2) The applicant shall submit documentary evidence to establish eligibility to take the oath of allegiance, which includes proof of birth abroad to a U.S. citizen parent between May 24, 1934 and December 24, 1952. If the diplomatic, consular, INS, or passport officer determines that the applicant is ineligible to regain citizenship under section 313 INA, the oath shall not be administered.

[31 FR 13537, Oct. 20, 1966, as amended at 61 FR 29653, June 12, 1996]

Subpart C—Loss of Nationality

§ 50.40 Certification of loss of U.S. nationality.

(a) *Administrative presumption.* In adjudicating potentially expatriating

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acts pursuant to INA 349(a), the Department has adopted an administrative presumption regarding certain acts and the intent to commit them. U.S. citizens who naturalize in a foreign country; take a routine oath of allegiance; or accept non-policy level employment with a foreign government need not submit evidence of intent to retain U.S. nationality. In these three classes of cases, intent to retain U.S. citizenship will be presumed. A person who affirmatively asserts to a consular officer, after he or she has committed a potentially expatriating act, that it was his or her intent to relinquish U.S. citizenship will lose his or her U.S. citizenship. In other loss of nationality cases, the consular officer will ascertain whether or not there is evidence of intent to relinquish U.S. nationality.

(b) Whenever a person admits that he or she had the intent to relinquish citizenship by the voluntary and intentional performance of one of the acts specified in Section 349(a) of the Immigration and Nationality Act, and the person consents to the execution of an affidavit to that effect, the diplomatic or consular officer shall attach such affidavit to the certificate of loss of nationality.

(c) Whenever a diplomatic or consular officer has reason to believe that a person, while in a foreign country, has lost his U.S. nationality under any provision of chapter 3 of title III of the Immigration and Nationality Act of 1952, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall prepare a certificate of loss of nationality containing the facts upon which such belief is based and shall forward the certificate to the Department.

(d) If the diplomatic or consular officer determines that any document containing information relevant to the statements in the certificate of loss of nationality should not be attached to the certificate, the person may summarize the pertinent information in the appropriate section of the certificate and send the documents together with the certificate to the Department.

(e) If the certificate of loss of nationality is approved by the Department, a copy shall be forwarded to the Immigration and Naturalization Service, De-

partment of Justice. The diplomatic or consular office in which the certificate was prepared shall then forward a copy of the certificate to the person to whom it relates or his representative.

[31 FR 13537, Oct. 20, 1996. Redesignated and amended at 61 FR 29652, June 12, 1996; 63 FR 20315, Apr. 24, 1998]

§ 50.50 Renunciation of nationality.

(a) A person desiring to renounce U.S. nationality under section 349(a)(5) of the Immigration and Nationality Act shall appear before a diplomatic or consular officer of the United States in the manner and form prescribed by the Department. The renunciant must include on the form he signs a statement that he absolutely and entirely renounces his U.S. nationality together with all rights and privileges and all duties of allegiance and fidelity thereunto pertaining.

(b) The diplomatic or consular officer shall forward to the Department for approval the oath of renunciation together with a certificate of loss of nationality as provided by section 358 of the Immigration and Nationality Act. If the officer's report is approved by the Department, copies of the certificate shall be forwarded to the Immigration and Naturalization Service, Department of Justice, and to the person to whom it relates or his representative.

[31 FR 13537, Oct. 20, 1966, as amended at 61 FR 29653, June 12, 1996]

§ 50.51 Notice of right to appeal.

When an approved certificate of loss of nationality or certificate of expatriation is forwarded to the person to whom it relates or his or her representative, such person or representative shall be informed of the right to appeal the Department's determination to the Board of Appellate Review (part 7 of this chapter) within one year after approval of the certificate of loss of nationality or the certificate of expatriation.

[44 FR 68827, Nov. 30, 1979. Redesignated at 61 FR 29653, June 12, 1996]